SHREDDING THE FOOD SAFETY NET

A PARTIAL REVIEW OF 200 STATE FOOD SAFETY AND LABELING LAWS CONGRESS IS POISED TO EFFECTIVELY KILL WITH H.R. 4167

A REPORT FROM THE CENTER FOR SCIENCE IN THE PUBLIC INTEREST NATURAL RESOURCES DEFENSE COUNCIL MARCH 2006

Summary

Congress is currently considering the so-called "National Uniformity for Food Act" (H.R. 4167), that will preempt approximately 200 current state food safety and labeling laws, and is likely to preempt about 40 future state food laws, according to Congressional Budget Office estimates. This would trigger state petitions to the Food and Drug Administration for exceptions from federal preemption for each of these 240 state laws under this legislation at a cost to FDA of \$100 million, CBO estimated. The bill faces a storm of state opposition, including from 39 attorneys general, state food and drug officials, state departments of agriculture, and state legislators. ²

There have been no hearings on this ambiguous and complex legislation, and proponents of the bill have given no clear indication of the array of specific state laws that will be affected by their proposal, so neither Congress nor the American public has any real notion of the breadth of the impact of this legislation. We therefore have undertaken an initial review of state law books to evaluate how many and the nature of state statutes are likely to be affected.

Our review concludes that this legislation would enact the most sweeping overhaul of food safety laws since at least the 1950's, preempting 196 or more state laws. The bill is being sold as a "common-sense" proposal that would "help consumers make educated decisions." However, we have found that in fact it would substantially eliminate many types of important information currently available under state law to consumers to help them make informed decisions. It also goes far beyond standardizing labeling requirements by preempting, for example, numerous state safety standards for milk, shellfish, and other foods, and laws authorizing inspection and protection of certain foods, restaurants, and food service establishments.

Among the statutes we have identified that this legislation preempts are:

- shellfish safety standard laws in at least 16 states,
- milk safety laws in all 50 states, and,
- restaurant and food service establishment safety laws in 50 states

—all with no replacement law at the federal level.

The bill also targets a law limiting levels of toxic lead in candies, a law requiring warnings to consumers about excessive levels of toxic chemicals in foods that cause cancer, birth defects, or developmental problems, and laws requiring labeling of fish as farm-raised or wild.

This report briefly reviews a selection of such state laws, but is likely to substantially understate the exact number of laws and the extent of the preemption that will be caused by this bill for several reasons. First, we have conducted only a partial review of state statutes, and do not purport to have thoroughly reviewed the wide array of all state laws that may be impacted under this bill—a task beyond our resources. Second, this report reviews mainly state *statutes* (laws adopted by the state legislatures and codified in state codes) not state *regulations* (that is, rules issued by administrative agencies such as state health departments), so there are many more state rules protecting the public that are not discussed here. Finally, we have made no attempt to review local ordinances or rules governing food safety, food service establishments, or restaurants, of which there undoubtedly are many more that would be preempted.

Bill Goes Well Beyond "Improving" Labeling

The bill has been asserted to merely assure that conflicting labels will not confuse consumers. But in fact, the bill overhauls two areas that have traditionally been handled cooperatively by both the states and the Food and Drug Administration (FDA), at the expense of state protections.

The first part of the bill bars any state or local food adulteration standard for corruption or replacement with inferior ingredients unless it is identical to what the FDA requires.³ In other words, most state food safety requirements that are stricter than what federal law requires, or fill gaps in federal law, are preempted. FDA theoretically can grant a state permission to maintain or enact stricter requirements through a petition process, but this process is so cumbersome that the CBO estimates it will cost FDA alone \$100 million to implement it—additional funds few expect FDA to obtain. Moreover, because FDA often views stricter state actions as a challenge to the adequacy of FDA action, state and other experts believe that FDA is unlikely to grant such petitions.

The second part of the bill bars any state or local requirement "with respect to a food...any statement, vignette, or other representation that indicates, *directly or by implication*, that the food presents or may present a hazard to health or safety" unless it is identical to what the FDA requires (emphasis added). Again, FDA can grant state petitions to allow the state to require such warnings, but the process is burdensome, and state and other experts believe it is likely to be fruitless. Thus, state and local governments can neither fill gaps in the FDA adulteration or labeling regulatory scheme, nor have requirements that are more protective of the public health than what the FDA requires.

Partial Review of Bill's Breathtaking Impacts^{*}

The state laws virtually eradicated by this bill include key laws adopted by state legislatures to supplement the gaps in federal food safety and labeling laws, many of which form a safety net to protect consumers from threats to their health or from unscrupulous food purveyors selling substandard or misleadingly labeled products. A table partially listing many of these state laws follows at the end of this report.

Some of the state laws address problems that are likely to be an issue only in certain states or regions, such as a Maine law requiring a warning of potential health threats from the alewife, a particular type of smoked fish. Other state laws address serious gaps in the federal food safety regime, such as the 50 state laws protecting the public from threats posed by contaminated milk, or from filthy food in restaurants and food service establishments.

Below we briefly review some of the key categories of food safety laws that are likely to be preempted by this bill.

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State Food Safety *Standards* **(Food Adulteration)**

- 50 state milk safety laws. Each state has adopted its own laws and rules to assure that milk sold within its borders is safe. Much of the milk in the United States is produced and sold within the confines of a single state, though of course a lot of milk and milk products also cross state borders. Yet there are substantial gaps in the federal food safety net with respect to milk. For example, there is no national law regulating the sale of raw un-pasteurized milk or raw un-pasteurized milk products. States have filled this important gap in the federal system by adopting their own milk safety laws, and state officials have vigorously opposed the bill's preemption of state milk protections.⁵
- 50 State laws regulating restaurants, schools, nursing homes, and other food service establishments. All states—generally through their health or agriculture departments—regulate and inspect restaurants, schools, nursing homes, and other food service establishments to be sure they provide food that is safe to eat. The FDA has no requirements for the safety of restaurant and food service establishment food.
- At least 16 state shellfish safety standard laws. Another significant gap in federal law is shellfish safety. Substantive safety standards to assure that shellfish are not contaminated and are handled safely would be preempted in at least 16 states: Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Louisiana, Maryland, New York, North Carolina, South Carolina, Texas, and Virginia.
- At least two state laws governing egg safety. At least two states regulate egg safety: Arkansas requires a label on egg containers required that states, "Keep refrigerated at or below 45 degrees Fahrenheit," and Illinois regulates egg processing in order to reduce the risk of microbial contamination.
- At least 16 state laws regulating food additives that pose health risks. Statutes that authorize the state to adopt standards for unsafe food and color additives that are more protective of human health than those FDA has set currently exist in Alabama California, Colorado, Florida, Hawaii, Illinois, Indiana, Kansas, Maryland, Montana, New Hampshire, North Dakota, Oregon, South Carolina, Texas, and Utah.
- At least three state laws regulating the safety of smoked fish. Michigan, New York, and Wisconsin have rules governing the safety of smoked fish. If not handled or prepared properly, smoked fish can retain potentially dangerous organisms.
- At least three state laws regulating certain dietary supplements. California prohibits the use of certain dietary supplements by high school athletes; Louisiana requires the vendor of food, dietary supplements, or homeopathic remedies to disclose certain information to consumers, and Ohio authorizes regulation of dietary supplements if they present a significant or unreasonable risk of illness or injury.
- At least two state laws regulating sulfiting agents, a potentially dangerous food allergen. Michigan and Virginia ban the use of a particular food allergen (sulfiting agents)

in restaurant foods. Sulfites can pose a potentially life-threatening risk to those who are allergic.⁸

- At least two state laws governing the safety of salvaged foods. Arkansas imposes certain requirements to assure that salvaged foods are safe and not contaminated, while Oregon requires disclosure that the food was salvaged. Many food banks and other charities rely on salvaged foods to meet their clients' needs.
- State law regarding lead in candy. California bans the sale of candy containing more than a certain amount of the toxic chemical lead.
- At Least 4 State Laws Regulating Alcohol Content in Candy. California requires disclosure if candy contains over 0.5% alcohol, while Minnesota and New Jersey ban sales of alcohol-containing confections to minors and South Dakota bans confections containing vinous, malt, or spirituous liquor, or compound or narcotic drugs.
- An Alabama law setting tolerances for infested, moldy, or decayed pecans and other nuts. Alabama requires disclosure of spoiled, infested, or moldy pecans and nuts.
- A New York law requiring disclosure of fats and oils. New York has a law requiring labels to show fats and oils in order of predominance in the food.

State food warning laws

In addition to preempting state substantive standards for food safety, the bill would block many state warning requirements as well:

- **Toxic chemical disclosure.** A California law (Proposition 65) requiring warnings for toxic chemicals in food that cause cancer, birth defects, and reproductive problems.
- Pesticide spraying after harvest disclosure. A Maine law requiring disclosure of postharvest spraying of produce with pesticides.
- Allergen (sulfites) disclosure. At least 2 State laws requiring a warning about possible allergic reaction when any sulfiting agent is present in bulk food in Connecticut Michigan are affected.
- Perishable disclosure. A California law requiring disclosure label if perishable when not refrigerated.
- **Disclosure if fish are farm-raised or wild.** Laws requiring disclosure regarding whether fish are wild or farm-raised would be preempted in Alaska (salmon), Arkansas (catfish), Louisiana (catfish), and Mississippi (catfish). Certain farm-raised fish may contain elevated levels of PCBs or other contaminants.

- **Genetically modified fish disclosure.** Alaska requires the labeling of farm-raised salmon products and of a genetically modified fish or fish product.
- Misleading honey labels restrictions. At least 7 State laws that prohibit products from misleadingly saying they contain honey would be preempted in Connecticut, Georgia, Iowa, Minnesota, Montana, Nevada, and Ohio. Such honey labels may be challenged as preempted under this legislation under the guise that that the honey label restrictions are an implied warning that foods do not contain natural honey and instead may include artificial sweeteners and flavorings, or highly refined sugar.
- **Previously frozen food disclosure.** Maryland requires a label to disclose if "fresh" food was preciously frozen and thus should not be refrozen.

New state or local laws treated more harshly than current laws

A state can petition the FDA, within 180 days, for a waiver from the pre-emption for state and local food safety and labeling laws in effect on the day the President signs the bill. The FDA must decide whether to grant the waiver within 540 days, and during this period the state or local requirement remains in effect. But FDA is free to deny any or all petitions requesting an exemption from preemption, under a subjective and politically malleable standard. Moreover, a new state or local food safety or labeling requirement enacted after the President signs the bill can not take effect until the FDA grants a petition by the state to grant a waiver for the new requirement. This creates a new and burdensome federal bureaucracy for state and local government entities that wish to act in their constituents' best interests.

Conclusion

This legislation would enact the most sweeping overhaul of food safety laws in decades, preempting at least 196 state laws that we know of. While backers are selling this legislation a "common-sense" measure to "help consumers make educated decisions," in fact it would eliminate many types of important notifications currently available to consumers under state law to help them make informed decisions. It also goes far beyond standardizing labeling requirements by preempting numerous state safety standards for foods such as milk, eggs, and shellfish, and laws authorizing inspection and protection of certain foods, restaurants, schools, nursing homes, and other food service establishments. States have long had primary responsibility for our nation's food safety enforcement and it is in the public's interest to retain states' authority to be stricter than the federal government, in order to protect us all.

NOTES

http://www.house.gov/waxman/issues/health/food_safety_hr_4167_letters_opposition.htm.

¹ Congressional Budget Office, Cost Estimate: H.R. 4167 National Uniformity for Food Act of 2005. As ordered reported by the House Committee on Energy and Commerce on December 15, 2005 (February 27, 2006).

² A partial collection of letters and position papers from state attorneys general, other state officials, and other organizations opposing H.R. 4167 is available at

³ See H.R. 4167 §403A(a)(5)-(6), (page 3, lines 1-15).

⁴ H.R. 4167, amended §403B (page 3, line 16 to page 5, line 16).

⁵ See, for example, Rodney Nilsestuen, Secretary, Wisconsin Department of Natural Resources, Agriculture, Trade and Consumer Protection, letter to Members of the House of Representatives, December 2005.

⁶ While H.R. 4167 does not preempt certain consumer advisories related to sanitation or recommended by the non-binding federal "Food Code," (*see* HR 4167, new §403B(g)(2), citing 64 Fed. Reg. 8576 (1999)), this exception applies only to consumer advisories, and does not appear to save state restaurant and food service establishment substantive safety codes from preemption, as these state laws are not identical to any federal requirement for such establishments, see *ibid* new FFDCA §403A(a)(6).

⁷ As noted above, H.R. 4167 does not preempt certain consumer advisories recommended by the non-binding federal "Food Code," (*see* HR 4167, new §403B(g)(2), citing 64 Fed. Reg. 8576 (1999)). While the so-called "Food Code" recommended by the federal government does recommend certain warnings to consumers about the risks of eating raw or undercooked shellfish, this exception applies only to consumer advisories, and does not appear to save from preemption state laws establishing substantive standards for shellfish safety, as they are not identical to any federal requirement for such establishments, see *ibid* new FFDCA §403A(a)(6).

⁸ See, for example, Ruth Papazian, FDA, "Sulfites: Safe for Most, Dangerous for Some," available online at http://www.fda.gov/fdac/features/096 sulf.html.

EXAMPLES OF STATE FOOD SAFETY AND LABELING LAWS AND REGULATIONS THAT COULD BE NULLIFIED BY H.R. 4167, THE NATIONAL UNIFORMITY FOR FOOD ACT OF 2005*

March 7, 2006

Alabama	Statutory provision prohibiting terra alba, barytes, talc, chrome yellow, or burnt umber in confectioneries. (Code of Alabama, Title 20, Chapter 1, § 20-1-23). Statutory provision setting minimum nutritional requirements for cornmeal or grits. (Code of Alabama, Title 20, Chapter 1, § 20-1-73). Statutory provision authorizing tolerances for infested, moldy, or decayed pecans and other nuts. (Code of Alabama, Title 20, Chapter 1, § 20-1-90). Statutory provision governing the safety of milk. (Code of Alabama, Title 2, Chapter 13, Article 3, §§ 2-13-80- 2-13-94). Statutory provision governing the safety of food in restaurants and other food service establishments. (Code of Alabama, Title 22, Chapter 20, §22-20-5). Law governing shellfish safety (Code of Alabama, Title 22, Chapter 2, §22-2-2)
Alaska	Statutory provision requiring labeling of farm-raised salmon products. (Alaska Food, Drug and Cosmetic Act, § 17.20.040 (12)). Statutory provision requiring labeling of genetically modified fish or fish products. (SB 25; signed by Governor May 19, 2005) Statutory provision governing the safety of milk. (Alaska Food, Drug, and Cosmetic Act, § 17.20.005(4)). Statutory provision governing the safety of food in restaurants and other food service establishments. (Alaska Food, Drug, and Cosmetic Act, § 17.20.005(1)). Law governing shellfish safety (Alaska Food, Drug and Cosmetic Act,

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	§17.20.005(5)).
Arizona	Statutory provision governing the safety of milk and other dairy products. (Arizona Revised Statutes, Title 3, Chapter 4, §§ 3-601- 3-634).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (Arizona Revised Statutes, Title 36, Chapter 1, Article 1, §36-104(b)(i))
	Law governing shellfish safety
	(Arizona Revised Statutes, Title 3, Chapter 6, Article 1, §§3-2901- 3-2904).
Arkansas	Statutory provision authorizing regulations governing the safety of salvaged food. (Arkansas Code, § 20-57-102).
	Statutory provision requiring a label on egg containers that states, "Keep refrigerated at or below 45 degrees Fahrenheit." (Arkansas Code, § 20-58-210).
	Statutory provision requiring any catfish product to be labeled as "farm-raised," "river or lake," "imported," or "ocean". (Arkansas Code, § 20-61-206).
	Statutory provision governing the safety of milk. (Arkansas Code, Title 20, Subtitle 4, §§20-59-101- 20-59-248).
	Statutory provision governing the safety of food in restaurants and other food service establishments.
	(Arkansas Code, Title 20, Subtitle 4, Chapter 57, Subchapter 2, §§20-57-201-20-57-204)
California	Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Sherman Food, Drug, and Cosmetic Law, §§ 110085 and 110090).
	Statutory provisions requiring that consumers be notified of contaminants that are known to the state to cause cancer or reproductive toxicity. (Proposition 65) (Cal. Health & Safety Code, §§25249.5 <i>et seq.</i>).
	Statutory provisions on shellfish safety. (Cal. Health & Safety Code §§112210 et seq.)
	Statutory provision limiting the amount of lead in candy. (AB 121; signed by Governor October 7, 2005.)

	Statutory provision prohibiting the use by high school athletes of certain dietary supplements (SB 37; signed by Governor October 7, 2005.)
	Statutory provision requiring label to disclose if food contains more than ½ of one percent alcohol. (Sherman Food, Drug, and Cosmetic Law, § 110695).
	Statutory provision requiring label to disclose if food is perishable when not refrigerated. (Sherman Food, Drug, and Cosmetic Law, §110700). Statutory provisions pertaining to the adulteration of wine. (Sherman Food, Drug, and Cosmetic Law, §110597). Statutory provision governing the safety of milk. (Food and Agriculture Code, §§32901- 32921).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (Cal. Health & Safety Code, Division 104, Part 7, Chapter 4, §§113700-114475)
Colorado	Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Colorado Food and Drug Act, § 25-5-413(2)).
	Statutory provision governing the safety of milk. (Colorado Revised Statutes, Title 25, Article 5.5, Part 1, §§25-5-101- 25-5-117).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (Colorado Revised Statutes, Title 25, Article 4, Part 16, §§25-4-1601-25-4-1612).
	Law governing shellfish safety (Colorado Revised Statutes, Title 25, Article 4, Part 18, §\$25-4-1803- 25-4-1805)
Connecticut	Statutory provision prohibiting the use of "honey" on the label of a food that does not contain honey. (General Statutes of Connecticut, Chapter 417, §21a-23).
	Statutory provision prohibiting the sale of cider vinegar unless made wholly from apple juice. (General Statutes of Connecticut, Chapter 417, §21a-25).

	Statutory provision requiring a warning about a possible allergic reaction when any sulfiting agent is present in any bulk food. (General Statutes of Connecticut, Chapter 418, §21a-104a).
	Statutory provision governing the safety of milk. (General Statutes of Connecticut, Title 22, Chapter 430, §§22-127- 22-203h).
	Regulatory provision governing the safety of food in restaurants and other food service establishments. (Public Health Code, Title 19a, Chapter 368a, §§19a-36a- 19a-36b).
	Law governing shellfish safety (General Statutes of Connecticut, Title 26, Chapter 491, §§26-192a- 26-192c).
	(Constant Statements of Comments and 11110 20, Chapter 151, 8,820 15211 20 1520).
Delaware	Statutory provision requiring carbonated beverages containing artificial sweeteners to be labeled as "dietetic." (Delaware Code, Title 16, §4312).
	Statutory provision governing the safety of milk. (Deleware Code, Title 16, §122 (3)f.).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (Deleware Code, Title 16, §122 (3)u).
	Law governing shellfish safety (Deleware Code, Title 7, Part 2, Chapter 19, §§1901- 1902)
Florida	Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Florida Food Safety Act, Title XXXIII, §500.13(2)).
	Statutory provisions on shellfish safety. (Florida Aquaculture Policy Act, Title XXXV, Chapter 597).
	Numerous statutory provisions concerning labeling of citrus fruit, canned citrus juices, and frozen citrus juices. (Florida Agriculture, Horticulture, and Animal Industry, Citrus Code, Title XXXV, §§601.99 et seq.).
	Statutory provision governing the safety of milk. (Florida Statutes, Title XXXIII, Chapter 502, §§502.012- 502.232).

	Statutory provision governing the safety of food in restaurants and other food service establishments. (Florida Statutes, Title XXXIII, Chapter 509, §§509.013-509.101).
Georgia	Statutory provision permitting ingredients of a carbonated beverage to be disclosed through an affidavit to the Commissioner rather than on the label. (Georgia Statutes, §26-2-28(9)(c)).
	Statutory provision regulating when a food can have the label "honey." (Georgia Statutes, §26-2-32(a)).
	Statutory provision governing the safety of milk. (Georgia Dairy Act of 1980, Title 26, §§26-2-230- 26-2-250).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (Georgia Statutes, Title 26, §§26-2-371- 26-2-373.1).
	Statutory provision governing the safety of fish and seafood (Georgia Statues, Title 26, §§26-2-318).
Hawaii	Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Hawaii FDCA, §328-13(b)).
	Statutory provision governing the safety of milk. (Hawaii Revised Statutes, §321- 11(14)).
	Regulatory provision governing the safety of food in restaurants and other food service establishments. (Hawaii Administrative Rules, Title 11, Chapter 12).
Idaho	Statutory provision governing the safety of milk. (Idaho Statutes, Title 37, Chapter 4, §§37-402- 37-413).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (Idaho Statutes, Title 39, Chapter 16, §§39-1601-39-1608).
Illinois	Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Illinois FDCA, Chapter 410, §13(b)).

Statutory provision deeming egg products adulterated if processed in a manner that increases the risk of microbial contamination. (Illinois FDCA, §10(f); Illinois Egg and Egg Products Act, Chapter 410, §3.1(1)). Statutory provision governing the safety of milk. (Grade A Pasturized Milk and Milk Products Act, Chapter 410, §\$635-1-635-19). Statutory provision governing the safety of food in restaurants and other food
service establishments. (Food Handling Regulation Enforcement Act, Chapter 410, §§1-3.1)
Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Indiana FDCA, §16-42-2-5(b)).
Statutory provision governing the safety of milk. (Indiana Code, Title 15, Article 2.1, Chapter 23, §§1-17).
Statutory provision governing the safety of food in restaurants and other food service establishments. (Indiana Code, Title 16, Article 42, Chapter 5, §§16-42-5.05-16-42-5-28 and Chapter 5.2, §§16-42-5.2-1-16-42-5.2-15).
Statutory provision regulating when a food can have the label "honey." (Iowa Code, Title V, §189.14(2)).
Statutory provision regulating when a food can have the label "sorghum." (Iowa Code, Title V, §189.14(3)).
Statutory provision governing the safety of milk. (Iowa Grade "A" Milk Inspection Law, Title V, Subtitle 4, Chapter 192.101-192.146).
Statutory provision governing the safety of food in restaurants and other food service establishments. (Iowa Code, Title IV, Subtitle 2, Chapter 137F, §§ 137.F1- 137F.19).
Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Kansas FDCA, §65-667(b)).
Statutory provision governing the safety of milk. (Kansas Statutes, Chapter 65, Article 7, §§65-771- 65-791).

	Statutory provision governing the safety of food in restaurants and other food
	service establishments.
	(Kansas Statutes, Chapter 36, Article 5, §§36-507-36-515c).
Kentucky	Statutory provision governing the safety of milk.
	(Kentucky Revised Statutes, Title XXI, Chapter 260, §§260.775- 260.845).
	Statutory provision governing the safety of food in restaurants and other food
	service establishments.
	(Kentucky Revised Statutes, Title XVIII, Chapter 217, §§217.127).
Louisiana	Statutory provision on shellfish safety. (Revised Statutes 40:5.3).
	Statutory provision requiring any catfish product to be labeled as farm-raised
	or naturally produced. (Revised Statutes 56:578.11).
	Statutory provision requiring a vendor of food, dietary supplements, or
	homeopathic remedies to provide certain information to a consumer if the
	vendor provides information for a fee (Act No. 334; signed by Governor June
	30, 2005, Revised Statutes 37:1742.1)
	Statutory provision governing the safety of milk
	Statutory provision governing the safety of milk. (Revised Statutes, Title 40, §§921-925).
	Statutory provision governing the safety of food in restaurants and other food
	service establishments.
	(Revised Statutes, 40:5.5)
	(Nevised Statutes, 40.3.3)
Maine	Statutory provision requiring disclosure of whether fresh produce has had a
Maine	post-harvest treatment. (Maine Revised Statutes, Title 22, Part 5, Chapter 551,
	\$2157.14).
	(\$2137.14).
	Statutory provision requiring sign stating that eating smoked alewives poses a
	health risk. (Maine Revised Statutes, Title 22, Part 5, Chapter 551, §2173).
	industrial field state of the 22, full of chapter out, 321/0).
	Statutory provision regulating the sale of apples that have been exposed to
	"controlled atmosphere." (Maine Revised Statutes, Title 7, Part 2, Chapter
	103, §539).
	Statutory provision governing the safety of milk.
	(Maine Revised Statutes, Title 7, Part 7, Chapter 601, §§2900- 2910-A).
	Statutory provision governing the safety of food in restaurants and other food
	service establishments.
	(Maine Revised Statutes, Title 22, Subtitle 2, Part 5, Chapter 562, §§2491-
	2501).

Maryland	Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Maryland FDCA, §21-239(c)).
	Statutory provision requiring label to disclose if "fresh" food was previously frozen and thus should not be refrozen. (Maryland FDCA, §21-210(b)(11)).
	Statutory provision prohibiting the sale of frozen food that has been previously thawed from a prior freezing. (Maryland FDCA, §21-207(b)(8)).
	Statutory provision governing the safety of milk. (Maryland Code, Title 21, Subtitle 4, §§21-401- 21-430).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (Maryland Code, Title 21, Subtitle 3, §§21-301-21-323.1).
	Statutory provision governing the safety of shellfish (Maryland Code, Title 4, Subtitle 7, §4-742)
Massachusetts	Statutory provision barring "halibut" on a food label if the food is not either hippoglossus hippoglossus or hippoglossus stenolepsis. (General Laws of Massachusetts, Title XV, Part 1, Chapter 94, §194B).
	Statutory provision governing the safety of milk. (General Laws of Massachusetts, Title XV, Part 1, Chapter 94, §§13-48D).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (General Laws of Massachusetts, Title XV, Part 1, Chapter 94, §§305A-305B).
	(General Laws of Massachuseus, Title AV, Part 1, Chapter 94, §§505A-505B).
Michigan	Regulations on smoked fish. (Michigan Admin. Code r. 285.569).
	Statutory provision banning the use of sulfiting agents in restaurants and other food service establishments. (Michigan Compiled Laws, Chapter 289, §289.6139).
	Statutory provision requiring a warning about a possible allergic reaction when any sulfiting agent is present in any bulk food. (Michigan Food Law of 2000, Chapter 289, §289.8103).
	Statutory provision governing the safety of milk. (Michigan Compiled Laws, Chapter 288, §§288.471- 288.711).
	Statutory provision governing the safety of food in restaurants and other food

	service establishments.
	(Michigan Compiled Laws, Chapter 289, §§289.1105-289.6135).
Minnesota	Statutory provision regulating when a food may be sold as "honey." (Minnesota Statutes, §31.74).
	Statutory provision requiring labeling of various types of wild rice. (Minnesota Statutes, §30.49).
	Statutory provision prohibiting the sale of a confection containing alcohol to a person under the age of 21 and requiring labels on such confections. (Minnesota Statutes, §31.76).
	Statutory provision governing the safety of milk. (Minnesota Statutes, Chapter 32, §§32.01-32.398).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (Minnesote Statutes Chapter 157, 88157 011, 157, 22)
	(Minnesota Statutes, Chapter 157, §§157.011-157.22).
Mississippi	Statutory provision requiring any catfish product to be labeled as farm-raised, river or lake, or ocean. (Mississippi Code, Title 60, Chapter 7, 860, 7, 607)
	(Mississippi Code, Title 69, Chapter 7, §69-7-607).
	Statutory provision governing the safety of milk. (Mississippi Code, Title 75, Chapter 31, §75-31-65).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (Mississippi Code, Title 69, Chapter 1, §69-1-18).
Missouri	Statutory provision governing the safety of milk. (Missouri Manufacturing Milk and Dairy Market Testing Law, Title XII, Chapter 196, §§196.520-196.610).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (Missouri Revised Statutes, Title XII, Chapter 196, §§196.240-196.265).
Montana	Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Montana FDCA, §50-31-108).
	Statutory provision regulating when a food can have the label "honey."

	(Montana FDCA, §50-31-204).
	Statutory provision governing the safety of milk. (Montana Code Annotated, Title 81, Chapter 22, §§81-22-101-81-22-419). Statutory provision governing the safety of food in restaurants and other food
	service establishments. (Montana FDCA, §§50-31-103- 50-31-106).
Nebraska	Statutory provision governing the safety of milk. (Nebraska Manufacturing Milk Act, Title 2, §§2-3913- 2-3946).
	Statutory provision governing the safety of food in restaurants and other food service establishments.
	(Nebraska Statutes, Title 81, §§81-2244.01-81-2276).
Nevada	Statutory provision prohibiting the use of "honey" on a food label if the food does not consist solely of honey. (Nevada Revised Statutes, Title 51, Chapter 585, §585.355).
	Statutory provision governing the safety of milk. (Nevada Revised Statutes, Title 51, Chapter 584, §§584.180- 584.210).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (Nevada Revised Statutes, Title 40, Chapter 446, §§446.017-446.945).
New Hampshire	Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (New Hampshire Revised Statutes, Title X, §146:21-II).
	Statutory provision prohibiting the sale of cider vinegar unless made solely from apple cider (New Hampshire Revised Statutes, Title X, §146:14).
	Statutory provision requiring that maple syrup be made solely from the sap of the maple tree. (New Hampshire Revised Statutes, Title X, §146:13).
	Statutory provision governing the safety of milk. (New Hampshire Revised Statutes, Title XIV, Chapter 184, §§184:30-a-184:30-h).
	Statutory provision governing the safety of food in restaurants and other food service establishments.

	(New Hampshire Revised Statutes, Title X, Chapter 143A, §§143.A:1-143.A:11).
New Jersey	Statutory provision prohibiting the sale to a person under the legal age of a confection containing more than 1/2 percent alcohol (New Jersey Statutes, Title 24, §24:5-9.1)
	Statutory provision governing the safety of milk. (New Jersey Statutes, Title 4, §§4:4-22- 4:4-23).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (New Jersey Statutes, Title 26, §§26:1A-7- 26:1A-10).
New Mexico	Statutory provision governing the safety of milk. (Dairy Act, Article 7, §§25-7-1- 25-7-8).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (New Mexico Statutes, Chapter 25, Article 1, §§25-1-1- 25-1-13).
New York	Statutory provision requiring label to show fats and oils in order of predominance in the food. (New York Agriculture and Markets Law, Article 17, §204-b).
	Statutory provision prohibiting the combined amount of lead, cadmium, mercury, and hexavalent chromium in any package from exceeding 100 parts per million. (Environmental Conservation Law, Article 37, §37-0205).
	Statutory provision requiring label to disclose whether frozen food has previously been offered for sale in unfrozen form. (New York Agriculture and Markets Law, Article 17, §214-g).
	Regulations regarding processing of smoked fish. (Rules and Regulations of New York, Title I, Part 262, §262.5).
	Statutory provision governing the safety of milk. (Agriculture and Markets Law, Article 5, §75).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (Agriculture and Markets Law, Article 28, §500).
	Statutory provision governing the safety of shellfish (Environmental Conservation Law, Title 3, §13-0307).
	(Environmental Conservation Law, Title 3, §13-0307).

North Carolina	Statutory provision on shellfish safety. (North Carolina General Statutes, Chapter 130A-, Article 8, Part 3, §130A-230). Regulation requiring that in summer camps only grade A pasturized milk be
	used and that the milk be served in the individual, original container so that the consumer can see the name of the milk distributor. (North Carolina Admin Code, Title 15A, Subchapter 18A, Section.1021(a)).
	Statutory provision governing the safety of milk. (North Carolina General Statutes, Chapter 106, Article 29, §§106-267- 106-268.1).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (North Carolina General Statutes, Chapter 130A, Article 8, Part 6, §§130A-247-130A-250).
North Dakota	Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (North Dakota FDCA, §§19-02.1-12(2)). Statutory provision governing the safety of milk. (North Dakota Century Code, Title 4, Chapter 4-30, §§4-30-01- 4-30-56). Statutory provision governing the safety of food in restaurants and other food service establishments. (North Dakota Century Code, Title 23, Chapter 23-09.2, §§23-09.2-01- 23-09.2-04).
Ohio	Statutory provision prohibiting the use of "honey" on a food label if the food is not honey. (Ohio Revised Code, Title XXX VII, §3715.38).
	Statutory provision that a dietary supplement is adulterated if the Director of Agriculture finds that it presents a significant or unreasonable risk of illness or injury. (Ohio Revised Code, Title XXXVII, §§3715.80- 3715.86).
	Statutory provision governing the safety of milk. (Ohio Revised Code, Title IX, Chapter 917, §§917.01- 917.99).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (Ohio Revised Code, Title XXXVII, §§3717.01- 3717.33).

Oklahoma	Statutory provision governing the safety of milk. (Oklahoma Milk and Milk Products Act, Title 2, Article 7, §§2-7-402- 2-7-421). Statutory provision governing the safety of food in restaurants and other food service establishments. (Oklahoma Statutes, Title 63, Article 11, §-1-1118).
Oregon	Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Oregon Revised Statutes, Title 49, Chapter 616, §49.616.366).
	Statutory provision requiring food that has been "salvaged" to have a label stating that fact. (Oregon Revised Statutes, Title 49, Chapter 616, §49.616.250(16)). Statutory provision requiring a warning label on foods containing diethylstilbestrol. (Oregon Revised Statutes, Title 49, Chapter 616, §49.616.333).
	Statutory provision governing the safety of milk. (Oregon Revised Statutes, Chapter 621, §§621.003- 621.300).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (Oregon Revised Statutes, Title 49, Chapter 624, §624.005- 624.992).
Pennsylvania	Statutory provision governing the safety of milk. (Purdon's Pennsylvania Statutes, Title 31, Chapter 13, §§645-660g). Regulatory provision governing the safety of food in restaurants and other food service establishments. (Pennsylvania Administrative Code, Title 28, Part II, Chapter 17, §§17-81-17.85).
Rhode Island	Statutory provision permitting ingredients of carbonated beverages to be disclosed in an affidavit to the Director of Health. (Rhode Island FDCA, §21-31-11(9)(ii)).
	Statutory provision requiring packaging or labeling to comply with the regulations of the Poison Prevention Packaging Act. (Rhode Island FDCA, §21-31-11(13)).

Statutory provision requiring disclosure of whether uncooked fish and shellfish have ever been frozen.

(Rhode Island FDCA, §21-31-3(13)).

Statutory provisions regulating packing of various kinds of fish in casks. (Rhode Island General Laws, Title 21, Chapter 21-15, §§21-15-3 *et seq.*).

Statutory provision regulating labeling of closed packages of apples. (Rhode Island General Laws, Title 21, Chapter 21-18, §21-18-2).

Statutory provision governing the safety of milk. (Rhode Island Milk Sanitation Code, Title 21, Chapter 21-2).

Statutory provision governing the safety of food in restaurants and other food service establishments.

(Rhode Island General Laws, Title 21, Chapter 21-27, §§21-27-1-21-27-11.13).

South Carolina

Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (South Carolina Food and Cosmetics Act, §39-25-130(b)).

Statutory provision governing the safety of milk. (South Carolina Code of Laws, Title 46, Chapter 49, §§46-49-10- 46-49-90).

Statutory provision governing the safety of food in restaurants and other food service establishments.

(South Carolina Code of Laws, Title 44, Chapter 1, §44-1-140(2)).

Statutory provision governing the safety of shellfish (South Carolina Code of Laws, Title 44, §§44-1-150-44-1-155).

South Dakota

Statutory provision deeming confectionaries adulterated if they contact any vinous, malt, or spirituous liquor or compound or narcotic drug. (South Dakota Codified Laws, Title 39, Chapter 4, §39-4-3(2)).

Statutory provision requiring food label to disclose when food contains chloroform and various narcotics.

(South Dakota Codified Laws, Title 39, Chapter 4, §39-4-10).

Statutory provision governing the safety of milk. (South Dakota Codified Laws, Title 39, Chapter 6, §§39-6-1- 39-6-22).

Statutory provision governing the safety of food in restaurants and other food

	service establishments. (South Dakota Codified Laws, Title 34, Chapter 18, §§34-18-25- 34-18-33).
Tennessee	Statutory provision governing the safety of milk. (Dairy Law of the State of Tennessee, Title 53, Chapter 3, Part 1, §§53-3-101-53-3-118). Statutory provision governing the safety of food in restaurants and other food service establishments. (Tennessee Code, Title 68, Chapter 14, Part 3, §§68-14-301-68-14-323).
Texas	Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Texas FDCA, §431.161(b)). Regulatory provision requiring that the internal temperature of potentially hazardous foods shall be no higher than 41 degrees Fahrenheit. (Texas Administrative Code, Title 25, Part 1, Chapter 229, Subchapter N, §229.219 (2)(C)(i)). Statutory provision governing the safety of milk. (Health and Safety Code, Title 6, Chapter 435, §§435.001- 435.021). Regulations governing the safety of molluscan shellfish. (Texas Administrative Code, Title 25, Chapter 241, Subchapter B, §§241.50-241.71) Regulatory provision governing the safety of food in restaurants and other food service establishments. (Health and Safety Code, Title 25, Chapter 229, §§ 229.161- 229.177).
Utah	Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Utah Code, Title 4, Chapter 5, §§4-5-17(3) - (5)). Statutory provision governing the safety of milk. (Utah Dairy Act, Title 4, Chapter 3, §§4-3-1- 4-3-14). Statutory provision governing the safety of food in restaurants and other food service establishments. (Utah Code, Title 26, Chapters15 and 15a, §§26-15-1- 26-15a-107).
Vermont	Statutory provision governing the safety of milk. (Vermont Statutes, Title 6, §§2671- 2768).

	Statutory provision governing the safety of food in restaurants and other food service establishments. (Vermont Statutes, Title 18, Part 5, Chapter 85, Subchapter 1, §§4301-4309).
Virginia	Statutory provision banning the use of sulfiting agents in restaurants. (Virginia Code, Title 35.1, Chapter 2, §35.1-14.1).
	Statutory provision prohibiting the removal of a label containing the date by which a food shall be sold. (Virginia Food Act, Title 3.1, Chapter 20, §3.1-388.1).
	Statutory provision governing the safety of milk. (Virginia Code, Title 3.1, Chapter 21, §§3.1-420- 3.1-425).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (Virginia Code, Title 35.1, Chapters 1-5, §§35.1-35.1-28).
	Statutory provision governing shellfish safety (Virginia Code, Title 28.2, Chapter 8, §§28.2-800- 28.2-826).
Washington	Statutory provision governing the safety of milk. (Revised Code of Washington, Title 15, §§15.36.002- 15.36.561).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (Revised Code of Washington, Title 43, Chapter 43.20, §§43.20.050(2)(c), 43.20.145).
West Virginia	Statutory provision governing the safety of milk. (West Virginia Code, Title 19, §19-11A-1- 19-11A-10).
	Statutory provision governing the safety of food in restaurants and other food service establishments. (West Virginia Code, Title 16, Article 6, §§16-6-3- 16-6-11).
Wisconsin	Statutory provision requiring label showing age and type of cheese made in Wisconsin. (Wisconsin Statutes, Chapter 97, §97.177(3)).
	Statutory provision prohibiting the sale of a food containing whole fish flour. (Wisconsin Statutes, Chapter 97, §97.13).
	Regulations regarding processing of smoked fish and a warning label for smoked fish. (Wisconsin food processing regulation, Chapter ATCP 70, Subchapter IV, §§ATCP 70.21 <i>et seq.</i>).

	Statutory provision governing the safety of milk. (Wisconsin Statutes, Chapter 97, §§97.20- 97.25). Statutory provision governing the safety of food in restaurants and other food service establishments. (Wisconsin Statutes, Chapter 97, §§97.30(1)- 97.30(2).
Wyoming	Regulatory provision governing the safety of milk. (Regulations of Department of Agriculture, Chapter 3, §§8(a)(i)-(iii)). Statutory provision governing the safety of food in restaurants and other food service establishments. (Wyoming Statutes, Title 35, Chapter 7, Article 1, §§35-7-120, 35-7-123, 35-7-125).